

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Dorothea Ollie-Barnes**

Case No. 09-82198

Chapter 13

Social Security No. xxx-xx-2929

Address: 2614 Lincoln Street, Durham, NC 27707-

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Debtor

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**OBJECTION TO CLAIM**

**NOW COMES** the Debtor above-named, through counsel, pursuant to 11 U.S.C. §502 and Bankruptcy Rule 3007, who respectfully objects to the proof of claim filed by the creditor WELLS FARGO BANK, N.A. and dated January 19, 2009, for the following reasons:

The Debtor believes the “pre-petition” arrearage claim in the amount of \$9,175.99 is overstated.

Additionally, even if the Debtors do have an arrearage, the Proof of Claim requests a \$300.00 attorney fee for “bankruptcy post-petition, pre-confirmation legal fees and expenses.” The Proof of claim does not in contravention of *In re Bartch* and *In re Obie* contain either proof that the Note was accelerated or that Wells Fargo Bank, N.A. has provided the Debtors with a notification of the assessment of this fee pursuant to N.C.G.S. § 45-91.

Because the Debtor contest the amount of the pre-petition arrearage claimed by said creditor in its Proof of Claim filed in this case, pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 9014 of the Federal Rules of Bankruptcy Procedure, the Debtor is, by separate document attached herewith, requesting production from said creditor of a payment history and related information.

**WHEREFORE**, the Debtor prays that the Court enter an Order reducing the pre-petition arrearage claim accordingly. Furthermore, in the event that said creditor contests this objection by filing a formal response thereto, the Debtor requests that, until such time as the aforementioned payment history is provided, the Court treat any hearing upon this Objection as preliminary, in accordance with the power vested in this Court pursuant to 11 U.S.C. 105(a).

Dated: January 19, 2009

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward Boltz

Edward Boltz

N.C. State Bar No. 23003

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

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**VERIFICATION**

Dorothea Ollie-Barnes, the Debtor herein, declares under penalty of perjury that the factual allegations set forth in the foregoing Objection to Claim are true and correct, to the best of said Debtor's knowledge, information and belief.

Dated: January 19, 2010

  
Dorothea Ollie-Barnes, Debtor

## CERTIFICATE OF SERVICE

I, Charlene Free, of the Law Offices of John T. Orcutt, P.C., do hereby certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age; and that on 1/26/10, I served copies of the foregoing **Objection to Claim**, by electronic noticing, upon the following parties:

Richard Hutson  
Chapter 13 Trustee

and by regular U.S. Mail, upon the following parties:

Dorothea Ollie-Barnes  
2614 Lincoln Street  
Durham, NC 27707

Wells Fargo Bank NA  
3476 Stateview Blvd  
Fort Mill, SC 29715

/s Charlene Free  
Charlene Free

confirop.wpt (5/3/09)